

## **LETTER OF APPEAL**

February 9, 2010

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

RE: Kansas City Unif Sch Dist 500  
Entity Number: 137613  
Form 471 Application # 665917  
FRN 1899726, 1899741  
Service Provider Name: Everest Connections, LLC  
SPIN 143027194  
FCDL Date – December 30, 2009

Contact Person: Ryan Martin  
Contact Address: P.O. Box 1426, Lawrence, KS 66044  
Contact Phone: 785-840-0100 ext 102 – Fax 785-749-7381  
Contact E-mail: [ryanmartin@eratesolutions.com](mailto:ryanmartin@eratesolutions.com)

To Whom It May Concern:

I am appealing the denial of FRN's 1899726 and 1899741 on Form 471 Application #665917. The Funding Commitment Decision Explanation for both FRN's states that:

"Bidding Violation – DR1: FRN is denied for failure to advise potential bidders that an RFP was issued. An RFP was issued and the Form 470 advised potential bidders that no RFP existed."

There was no RFP issued for the FRN's in question. Kansas City USD 500 used the Form 470 to solicit bids and did not receive any bids during the 28-day waiting period. Per USAC Rules for Competitive Bidding, "If you don't receive any bids after your 28-day waiting period, you can contact service providers to solicit bids and can then review and evaluate any bids received as a result. However, remember that if you post a new Form 470, issue a new RFP, or amend your existing RFP, you start a new 28-day waiting period."

Point 1 – The document (Attachment A) that was submitted incorrectly as a RFP by me during the Selective Review was actually a solicitation of bids due to the fact that none were received during the 28-day waiting period. AT&T, the district's service provider at the time, told the

district on January 22, 2009, that their pricing would remain the same. The district then sent out an invitation to bid to two alternate vendors in their service area on February 2, 2009 in order to receive a more cost effective price for the service. I incorrectly listed the date that this solicitation was sent out as 12/24/2008 during the Selective Review and asked Kate Song if I would be able to correct that before the Selective Review was complete. She informed me, per our phone conversation on 11/10/2009, that I had already submitted a date that it was issued and would not be able to change that. I then sent an e-mail to her informing her of my clerical error of listing the document as a RFP (Attachment B).

Point 2 – The solicitation of bids (Attachment A) references the USAC Website to view the Form 470 for information regarding the services in question. It also references Joe Fives, Director of Information Technology Services at Kansas City USD 500, as an alternate source of information for the bids and he is listed on the Form 470, in Item 12, as the Optional Contact. No RFP was issued and no new Form 470 was posted for the services.

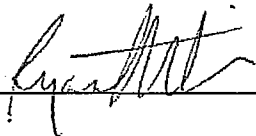
Point 3 - The result of the solicitation of bids from the additional vendors allowed the school district to receive a lower price on the services being requested. I have provided the school district's evaluation of all three of the bids (Attachment C and Attachment D).

I am asking that these FRN's be approved as submitted as no RFP was issued for the services and therefore no program violations were committed.

Thank you for your assistance with this matter and please contact me if you require additional information.

Ryan Martin

Signed



Date

2/9/2010

INVITATION TO BID

The Board of Education, U.S.D. 500, Kansas City, Kansas will accept sealed bids for the LEASE OF HIGH SPEED TELECOMMUNICATION LINES FOR BROADBAND WIDE AREA NETWORK SERVICES for various schools in the Kansas City, Kansas Public School System to be opened on February 4, 2004 at 3:00 p.m. in the Purchasing Department Office. Sealed proposals should be addressed to "Assistant Superintendent for Business Services, Library Building, 625 Minnesota Avenue, Kansas City, Kansas, 66101 – Bid 20022, Lease of Telecommunications Lines."

Bid documents and specifications are available at the Schools and Libraries Universal Website at [www.universalservice.org](http://www.universalservice.org). Questions can be directed to Joe Fives, Director of Information Technology at telephone number (913) 551-3200.

Proof of insurance will be required by the successful bidder prior to commencing work on this contract.

No bidder may withdraw a bid for a period of one hundred eighty (180 days) after the date of the bid opening. Unified School District No. 500 reserves the right to reject any and all bids, without recourse from the bidder.

Robert W. Young  
Director of Purchasing  
Unified School District No. 500

**Ryan Martin**

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**From:** Ryan Martin [ryanmartin@eratesolutions.com]  
**Sent:** Tuesday, November 10, 2009 1:04 PM  
**To:** 'Song, Kate'  
**Subject:** RE: E-rate Selective Review FY 2009 SRIR EN 137613 - denial  
**Attachments:** Item #3 - Solicitation of Bids for FRN 1899726 and FRN 1899741.pdf

Kate,

I incorrectly listed the attached document as a Request For Proposal. The document was a solicitation for bids since no bids were received from the Form 470 posting during the 28 day Competitive Bidding Period (12/24/2008 – 01/21/2009). Therefore, no RFP was ever issued for FRN's 1899741 and 1899726.

Please contact me if you require any additional information.

Thank you,

Ryan Martin  
eRate Solutions, LLC  
785-840-0100 ext. 102  
[ryanmartin@eratesolutions.com](mailto:ryanmartin@eratesolutions.com)

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**From:** Song, Kate [mailto:KSONG@sl.universalservice.org]  
**Sent:** Wednesday, November 04, 2009 10:23 AM  
**To:** Ryan Martin  
**Subject:** E-rate Selective Review FY 2009 SRIR EN 137613 - denial  
**Importance:** High

Ryan,

Please see attached.

Thank you,  
Kate

**Kate Song**  
Selective Reviewer  
Schools and Libraries Division for E-Rate Program  
Phone: 973-581-6743  
Fax: 973-599-6515  
Email: [ksong@sl.universalservice.org](mailto:ksong@sl.universalservice.org)

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## Kansas City, Kansas Public Schools

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*Unified School District No. 500*

**Adjusted Bid Responses for FRN 1899726 – Adjusted from Original Bid Responses to equal 51 T-1 Lines  
and 10,200 DID #'s for each Vendor**

**SureWest fka Everest Connections, LLC**

3yr Bid for Point to Point T-1 Lines for Voice

51 Lines @ \$300/Line = \$15,300

102 DID Blocks of 100 #'s(10,200 total #'s) @ \$10/Block = \$1,020

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Total Bid - \$16,320/month

**AT&T**

3yr Bid for Point to Point T-1 Lines for Voice

23 Lines @ \$250/Line = \$5,750

20 Lines @ \$379/Line = \$7,580

8 Lines @ \$384/Line = \$3,072

102 DID Blocks of 100 #'s(10,200 total #'s) @ \$15/Block = \$1,530.11

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Total Bid - \$17,932.11/month



## Kansas City, Kansas Public Schools

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*Unified School District No. 500*

### **Paetec**

3yr Bid for Point to Point T-1 Lines for Voice

51 Lines @ \$375/Line = \$19,125

DID Blocks (10,200 total #'s) – Included in \$375/Line Cost

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Total Bid - \$19,125/month



## Kansas City, Kansas Public Schools

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*Unified School District No. 500*

**Adjusted Bid Responses for FRN 1899741 – Adjusted from Original Bid Responses to equal 5 PRI Lines**

**SureWest fka Everest Connections, LLC**

3yr Bid for PRI Lines for Voice

5 Lines @ \$300/Line = \$1,500

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Total Bid - \$1,500/month

**Paetec**

3yr Bid for PRI Lines for Voice

5 Lines @ \$375/Line = \$1,875

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Total Bid - \$1,875/month

**AT&T**

3yr Bid for PRI Lines for Voice

5 Lines @ \$646.84/Line = \$3234.20

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Total Bid - \$3,234.20/month



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2009-2010**

February 24, 2010

Ryan Martin  
eRate Solutions, LLC  
P.O. Box 1426  
Lawrence, KS 66044

Re: Applicant Name: KANSAS CITY UNIF SCH DIST 500  
Billed Entity Number: 137613  
Form 471 Application Number: 665917  
Funding Request Number(s): 1899726, 1899741  
Your Correspondence Dated: February 09, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2009 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1899726, 1899741  
Decision on Appeal: **Denied**  
Explanation:

- After review of your letter of appeal and all pertinent documentation, it has been determined that as part of a Selective Review by SLD, you submitted bid documentation on July 8, 2009, which you referred to as "RFP 20022." This Request For Proposal (RFP) covered FRNs 1899726 and 1899741 of Form 471 # 665917. Furthermore, you indicated that the release date of this document was December 24, 2008 and the bid due date was February 4, 2009. In an email to SLD dated November 10, 2009, you state that you incorrectly listed that document as a RFP and that the document was only a solicitation for bids. It should be noted that a solicitation for bids is still considered a RFP by SLD. In your letter of appeal you further stated that your bid document was actually sent out on February 2, 2009 and not December 24, 2009 as previously indicated. As the document sent to possible vendors on February 2, 2009 was a RFP, the



program's rules and regulations require that there be a 28-day waiting period after its release before a contract can be signed. You indicated that a contract was signed on February 10, 2009. Furthermore, you submitted your Form 471 #665917 on February 12, 2009. Both occurred before the end of the mandatory 28-day waiting period. This constitutes a violation of SLD Competitive Bidding Procedures. The appeal therefore is denied.

- On the FCC Form 470 associated with your funding requests, you indicated that you did not intend to release an RFP for the products and/or services that you sought. During the review of your FCC Form 471, USAC determined that an RFP was released for the products and/or services requested. Since you failed to inform potential bidding service providers that an RFP was available for the products and/or services requested, USAC denied your requests for funding. In your appeal, you did not show that USAC's determination was incorrect.
- FCC rules require applicants to "submit a complete description of services they seek so that it may be posted for competing service providers to evaluate" and formulate bids. *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, FCC 97-157, paras. 570, 575 (rel. May 8, 1997). The applicant's FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP relating to particular services indicated on the form. *See* Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313 para. 39 (rel. Dec. 8, 2003).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Joseph R. Fives

Ryan Martin  
eRate Solutions, LLC  
P.O. Box 1426  
Lawrence, KS 66044

Billed Entity Number: 137613  
Form 471 Application Number: 665917  
Form 486 Application Number: